

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO

TRACY BAYS and KERRIGAN SKELLY,

Plaintiffs,

vs.

CITY OF FAIRBORN; FAIRBORN ARTS
ASSOCIATION; FAIRBORN LIONS
CLUB; PETER BALES, individually and in
his official capacity as Parks & Recreation
Superintendent for the City of Fairborn;
MARK STANNARD, individually and in his
official capacity as Police Officer for the City
of Fairborn; RODNEY MYERS, individually
and in his official capacity as Police Officer
for the City of Fairborn,

Defendants.

CIVIL ACTION NO. 3:10-cv-00283-TMR

District Judge Thomas M. Rose

CONSENT ORDER AND JUDGMENT
ENTRY

Final Resolution of this matter and controversy has been settled by and between the parties, and accepted by the Court. Accordingly, the parties, by and through their undersigned attorneys, having approved and consented to the entry of this Consent Order and Judgment Entry.

IT IS on this 5 day of July, 2012, ORDERED AND
ADJUDGED AS FOLLOWS:

1. This Court hereby declares that the Fairborn Sweet Corn Festival Solicitation Policy is unconstitutional as enforced against the Plaintiffs in that it is not narrowly tailored to serve a significant governmental interest.¹

2. The Preliminary Injunction entered on March 12, 2012 is hereby converted to a Permanent Injunction whereby Defendants are hereby enjoined from enforcing the Solicitation

¹ This Solicitation Policy is contained in ¶5 of Exhibit C to Plaintiffs' Motion for Preliminary Injunction and reads as follows: "There shall be no sales or soliciting of causes outside of the booth space."

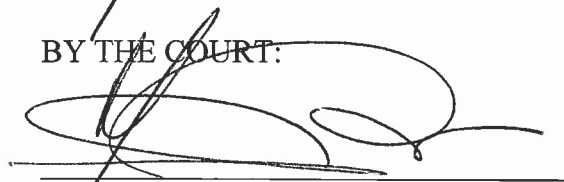
Policy, on its face or as applied, so as to interfere with or prohibit Plaintiffs or other third party speakers from engaging in protected expression, in the form of peaceful distribution of literature, display of signs and speech, in Community Park during future Fairborn Sweet Corn Festivals.

3. Defendants shall pay each Plaintiff the amount of \$1.00 as nominal damages within 30 days of the date this Order is signed. Defendants shall also pay an agreed upon amount of attorney fees and litigation costs to Plaintiffs' attorneys. Such payment shall be made in the manner, and subject to the terms and conditions, set forth in a separately executed Settlement Agreement between the parties.

4. The Court retains jurisdiction of this case solely to enforce the terms of this Consent Order and Judgment Entry.

SO ORDERED this 5th day of July, 2012.

BY THE COURT:



Thomas M. Rose
District Judge
United States District Court

WE HEREBY CONSENT TO THE FORM
AND ENTRY OF THE ABOVE ORDER:

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